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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

OCT 30 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Consumers Union Request to Amend	)	RM No. 9167
Commission's Rules to Update Cable	)	
Television Regulations and Freeze	)	
Existing Cable Television Rates	)	

COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION  
IN RESPONSE TO PETITION

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October 30, 1997

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### **Summary**

The Telecommunications Industry Association ("TIA"), which has a membership of over 600 U.S. companies which manufacture and provide communications and information technology equipment, products, systems, distribution services and professional services throughout the world, urges the Commission to reject the petition of the Consumers Union. The cable industry has been making major investments to upgrade its infrastructure and initiate digital services. Any effort to re-regulate the cable industry would needlessly prolong the industry's "regulatory investment deficit" and deprive American consumers of access to advanced telecommunications capabilities and the Internet.

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**Comments of Telecommunications Industry Association**

The Telecommunications Industry Association ("TIA") hereby comments on the Consumers Union Request to Amend Commission's Rules to Update Cable Television Regulations and Freeze Existing Cable Television Rates., FCC RM No. 9167. The TIA has a membership of over 600 U.S. companies which manufacture and provide communications and information technology equipment, products, systems, distribution services and professional services throughout the world.

\* \* \* \*

The primary purpose of the Telecommunications Act of 1996 ("1996 Act") is to "accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans...."<sup>1</sup> To achieve this goal will require massive investment in new plant, infrastructure, and customer equipment. With respect to the cable industry, such investment can best be encouraged by a two-pronged strategy of deregulating cable services and eliminating the "regulatory investment deficit." The 1996 Act establishes a schedule for deregulation of cable service, but the Consumers Union petition would vitiate this timetable and take the Commission on a course of action

that is directly opposite to what is contained in the Act - a cable rate freeze. This would exacerbate the "regulatory investment deficit".

This deficit developed when, in anticipation of revenue reductions of uncertain magnitude, cable operators diminished their total investment in infrastructure in the period preceding enactment of the 1992 Cable Act. In the five-year period between 1990 and 1994, the peak for cable investment was in 1990, when investment totaled \$10.552 billion. As it became apparent that the 102<sup>nd</sup> Congress would impose rate regulation on the industry, cable operators assumed a defensive posture in 1991 and 1992, when investment bottomed out at just \$8.9 billion. Although investment has begun to recover in the post-Cable Act period, it still not at the levels which could reasonably be expected in the absence of re-regulation.<sup>2</sup>

The "regulatory investment deficit" must be eliminated if cable operators are to play an important role in building the information infrastructure that America will need to compete in the 21<sup>st</sup> century. Cable operators that embrace the challenge of building the information infrastructure should enjoy maximum regulatory flexibility as they seek to upgrade their facilities from one-way, analog systems to two-way, digital broadband systems capable of carrying Internet and other types of interactive services.

Notwithstanding this deficit, the cable operators have been making investments critical to achieving these objectives. While investments by utilities and other traditional telecommunications providers in fiber optics remained flat or slowed down, cable operators increased their investments by seven fold between 1992 and 1995, according to Corning.<sup>3</sup> Cable operators have more recently been making important investments in cable modem technology for Internet access. According to George Gilder, "cable modems have suddenly become the prevailing broadband access technology for the Internet, now serving some 6 percent of Internet subscribers where available." Subscriber numbers are increasing 50% every two months!<sup>4</sup>

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<sup>1</sup> S. Rep. 230, 104<sup>th</sup> Congress, 1<sup>st</sup> Session 1 (1995).

<sup>2</sup> See attachments.

<sup>3</sup> Presentation at The Progress and Freedom Foundation's *Aspen Summit*.

<sup>4</sup> See Gilder Technology Report, October 1997, Vol. II, Number 10, p. 7.

The response of the Consumers Union to these pro-consumer investments is to propose a rate freeze on cable rates. The Commission should reject this request and not undercut, through regulation, either the deregulatory thrust of the 1996 Act or the Congress's goal of promoting the deployment of advanced technology and digital services.


\* \* \* \*

The TIA's member companies are providing the most advanced technologies and equipment to services providers in both industrial and developing countries around the world. When service providers in these countries deploy new or upgraded cable plant, they want and demand the most advanced technology and equipment offered by American companies. If the United States is to continue to have the most advanced communications infrastructure in the world—and that appears to be the intent of the 1996 Act—then the regulatory scheme under which the industry operates must become more deregulatory, not more regulatory. Otherwise, capital needed for investment in infrastructure will flow to places where investors can earn a better return on their investment.

The TIA urges the Commission to bear this in mind and take a more deregulatory approach in implementing the 1996 Act. Doing so will help alleviate the "regulatory investment deficit" and ensure that the American consumer has access to the most advanced communications infrastructure in the world.

Respectfully submitted,

Telecommunications Industry Association



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